

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF OHIO
EASTERN DIVISION**

JOHN MCQUEEN,

Plaintiff,

vs.

**Case No.: 2:16-cv-344
JUDGE GEORGE C. SMITH
Magistrate Judge Kemp**

LYNN FISHER, *et al.*,

Defendants.

ORDER

On April 24, 2017, the United States Magistrate Judge issued an Order granting Defendant Lynn Fisher's Motion for Leave to File Instantly an Amended Motion to Dismiss. (*See* Order, Doc. 15). This matter is now before the Court on Plaintiff's Objection to the Magistrate's Order. (Docs. 16 and 18). The Court will consider the matter *de novo*. *See* 28 U.S.C. § 636(b)(1); Fed. R. Civ. P. 72(b)(3).

Plaintiff argues both in his response to Defendant Fisher's Motion for Leave to File the Amended Motion to Dismiss and in his objections that default judgment should be entered against Defendant Fisher because she failed to timely serve Plaintiff with a copy of her original Motion to Dismiss, document 9. Plaintiff argues that seeking leave to file the amended motion to dismiss was a way for Defendant Fisher to start over and properly serve the motion to dismiss.

The Court has carefully considered the issues raised by Plaintiff and finds that there was no harm in the initial failure of Defendant Fisher to serve a copy of the motion to dismiss to Plaintiff's correct address. The Court has not considered that motion to date. Therefore, Plaintiff's objection to the Magistrate Judge's April 24th Order is hereby **OVERRULED**.

For the same reasons set forth above, Plaintiff's repeated Motions for Default Judgment against Defendant Fisher are **DENIED**.

The Magistrate Judge's April 24th Order is hereby **ADOPTED** and **AFFIRMED**. Plaintiff's Motions for Default Judgment (Docs. 11 and 19) are **DENIED**. In light of the filing of the Amended Motion to Dismiss, the January 16th Motion to Dismiss is **DENIED AS MOOT**. The Clerk shall remove Documents 9, 11, 18, and 19 from the Court's pending motions list.

IT IS SO ORDERED.

/s/ George C. Smith
GEORGE C. SMITH, JUDGE
UNITED STATES DISTRICT COURT